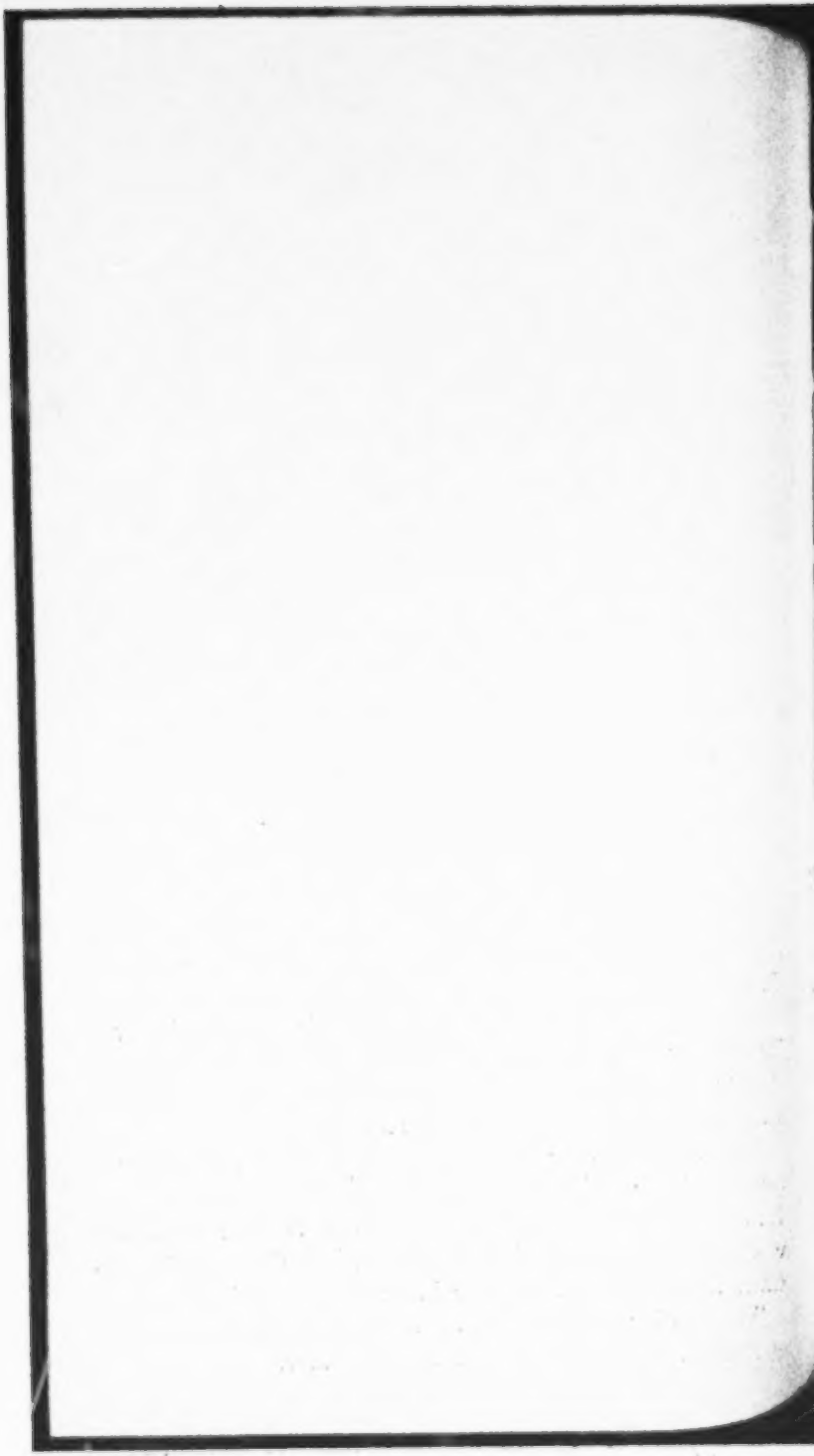


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In the

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1969

No. 1459

EUGENE P. RUEHLMANN, EXECUTOR OF THE ESTATE OF FRANCES FOSTER WELLS, DECEASED,
Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

PETITION FOR REHEARING ON A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

On June 8, 1970, this Court entered an Order denying the Petition for Writ of Certiorari in the above-entitled Case.

Pursuant to Rule 58, we enter this Application for Rehearing of Order on the Petition for Writ of Certiorari in *Wells* v. *Commissioner of Internal Revenue,* 418 F.2d 1302 (6th Cir. 1969), Docket No. 1459.

We ask this Court to postpone its decision on this Petition until the Ninth Circuit Court of Appeals decides *Robert C. Davis, Executor of Estate of Isabelle M. Davis* v. *United States,* 306 F. Supp. 949 (C.D. Calif. 1969) because *Davis* involves an issue identical to that in Wells.

The Justice Department, in its brief for the Respondent, at Page 5, also suggest this as an alternative.

If the Ninth Circuit Court of Appeals in *Davis* disagrees with the Sixth Circuit's decision in Wells, the result would be a conflict between circuits. Such a conflict would necessitate this Court's review of both cases.

Therefore, we pray that the Court defer its decision on this Petition for rehearing, allowing us to preserve our position, until such time as *Davis* has been decided.

CERTIFICATE OF COUNSEL SUPPORTING PETITION

I hereby promise that such petition for rehearing of the order on the Petition for Rehearing on Writ of Certiorari is presented in good faith and not for delay and that the Petition is restricted to the grounds above specified.

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